

Chapter 326, P.L. 2005
(Enacted January 12, 2006)

[Second Reprint]

SENATE, No. 1315

**STATE OF NEW
JERSEY**

211th LEGISLATURE

INTRODUCED MARCH 8, 2004

Sponsored by:

Senator JOHN A. GIRGENTI

District 35 (Bergen and Passaic)

Senator ANTHONY R. BUCCO

District 25 (Morris)

Assemblyman JOHN S. WISNIEWSKI

District 19 (Middlesex)

Assemblyman FREDERICK SCALERA

District 36 (Bergen, Essex and Passaic)

Assemblyman GORDON M. JOHNSON

District 37 (Bergen)

Co-Sponsored by:

**Senators Asselta, Allen, Assemblymen Stack and
Vas**

Chapter 326, P.L. 2005

2

SYNOPSIS

Makes certain volunteer firefighters who were appointed to paid positions and currently in PERS eligible for transfer to PFRS.

CURRENT VERSION OF TEXT

As amended by the Senate on January 9, 2006.

(Sponsorship Updated As Of: 1/10/2006)

AN ACT concerning membership in the Police and Firemen's Retirement System of New Jersey and ²[amending and]² supplementing P.L.1944, c.255.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

²[1. Section 3 of P.L.1944, c.255 (C.43:16A-3) is amended to read as follows:

3. (1) After the date of the establishment of this retirement system, any person becoming a full-time policeman or fireman in a county or municipality or fire district located in a township where, prior to the date this act takes effect, a pension under chapter 16 of Title 43 or article 4 of chapter 10 of Title 43 of the Revised Statutes for policemen or firemen has been established, shall become a member of this retirement system as a condition of his employment; he will be enrolled provided, that (a) his

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted January 5, 2006.

² Senate floor amendments adopted January 9, 2006.

Chapter 326, P.L. 2005

3

age at becoming such full-time policeman or fireman is not over 35 years,
except that any member of a municipal volunteer fire company or force
who is appointed to a paid position as a fireman pursuant to
N.J.S.40A:14-42 through 40A:14-44 shall be not more than 40 years of
age at the time of the appointment, or [if] (b) such person shall have met
the requirements at the announced closing date of a civil service
examination for such position and was appointed during the existence of
the civil service list promulgated as a result of such examination; and
further provided, that he shall furnish such evidence of good health at the
time of becoming a member as the retirement system shall require.

(2) After the date upon which this act becomes effective in any
county, municipality or political subdivision thereof, pursuant to a
referendum as hereinafter provided (a) any person becoming a full-time
policeman or fireman in any such county, municipality or political
subdivision shall become a member of this retirement system as a
condition of his employment; he will be enrolled provided, that his age at
becoming such full-time policeman or fireman is not over 35 years,
except that any member of a municipal volunteer fire company or force
who is appointed to a paid position as a fireman pursuant to
N.J.S.40A:14-42 through 40A:14-44 shall be not more than 40 years of
age at the time of the appointment; and provided
further, that he shall furnish such evidence of good health at the time of
becoming a member as the retirement system shall require; and (b) any
person in service as a full-time policeman or fireman in any such county,
municipality or political subdivision on the date this act becomes
effective therein who, within the time and in the manner permitted by
this act, elects to become a member of this retirement system, shall
become such member.

(3) Should any member withdraw his aggregate contributions, or

**EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and intended to be omitted in the law.**

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SBA committee amendments adopted January 5, 2006.

² Senate floor amendments adopted January 9, 2006.

Chapter 326, P.L. 2005

4

become a beneficiary or die, or if more than 2 years have elapsed from the date of his last contributions to the system, he shall thereupon cease to be a member.

(4) Should any member resign or be dismissed from the police or fire service of the employing agency and not make application for the return of his aggregate contributions, the retirement system shall upon receiving conclusive advice of such separation, terminate the membership. The employees' contributions from memberships so terminated shall be held by the retirement system and returned to the employee without interest when application for such return is made.

(5) If a member of the retirement system has been discontinued from service through no fault of his own or through leave of absence granted by his employer or permitted by any law of this State and he has not withdrawn his accumulated deductions, his membership may continue, notwithstanding any provisions of this article if such member returns to service within a period of 5 years from the date of his discontinuance from service.

¹(6) The State shall not be liable for any costs incurred by a local employer as a result of the amendment to this section by P.L. , c. (pending before the Legislature as this bill).¹
(cf: P.L.1980, c.129, s.1)]²

²[2.] 1. ² (New section) a. ¹[Any] Upon the approval by the municipal governing body, any¹ fireman employed by a municipality on the effective date of this act who (1) was not eligible for membership in the Police and Firemen's Retirement System (PFRS), established pursuant to P.L.1944, c.255 (C.43:16A-1 et seq.), at the time of appointment to a paid position pursuant to N.J.S.40A:14-42 through 40A:14-44, (2) meets the requirements for membership in the retirement system as set forth in the definition of "fireman" in section 1 of P.L.1944, c.255 (C.43:16A-1) ²[, as amended and supplemented,]² and (3) is enrolled in the Public Employees' Retirement System of New Jersey (PERS), established pursuant to P.L.1954, c.84 (C.43:15A-1 et seq.), on the effective date of

Chapter 326, P.L. 2005

this act, is eligible to become a member of PFRS, regardless of age, and may transfer membership from PERS to PFRS in accordance with the provisions of the law and regulations governing the retirement system relative to interfund transfers by waiving, within 90 days of the effective date of this act, all rights and benefits which would otherwise be provided by PERS. If an eligible person does not file a timely waiver of PERS benefits, the person's pension status shall remain unchanged and the person's membership shall not be transferred to PFRS. Transfers under this section shall take effect on the first day of the first full calendar month following the effective date of this act by at least 180 days. PERS shall transmit to PFRS an amount equal to the present value of the benefit under PERS accrued to the date of transfer by each person transferring to PFRS. The service credit accrued in PERS to the date of transfer shall be transferred to PFRS and may be used to meet any service credit requirement for benefits under PFRS. Any benefit of a member who transfers membership from PERS to PFRS under this act based upon service credit shall be the amount of benefit determined as provided under PFRS based upon the total amount of service credit multiplied by the ratio of the service credit under PFRS from the date of transfer to the total amount of service credit, plus a benefit comparable to a PERS deferred, early or regular service retirement benefit, as appropriate, based upon the age of the member at the time of retirement and the amount of PERS service credit transferred to PFRS, determined as provided under the law and regulations governing PERS for the benefit. The total amount of service credit in PFRS, including the transferred PERS service credit, may be used to meet the service credit requirement for the benefit comparable to a PERS deferred or early retirement benefit, but the benefit shall be calculated only on the transferred PERS service credit.

Active and retired death benefits, accidental death benefits, and ordinary and accidental disability retirement benefits for members transferring to PFRS under this act shall be the benefits provided under PFRS.

For members transferring to PFRS under this act, the widows' or

Chapter 326, P.L. 2005

6

widowers' pensions provided under section 26 of P.L.1967, c.250 (C.43:16A-12.1) shall be the amount of the benefit determined as provided in section 26 multiplied by the ratio of the service credit under PFRS from the date of transfer to the total amount of service credit. Transferring members shall be entitled to elect optional retirement allowances for the portions of their retirement benefits based upon their PERS service credit as provided under the laws and regulations governing selection of optional retirement allowances under PERS.

b. Notwithstanding the provisions of subsection a. of this section, a fireman who transfers membership from PERS to PFRS may receive full credit toward benefits under PFRS for the transferred PERS service credit if the member agrees to pay the full cost of the accrued liability for the transferred PERS service credit in the same manner and subject to the same terms and conditions provided for the purchase of credit for military service under section 3 of P.L.1991, c.153 (C.43:16A-11.11).

Chapter 326, P.L. 2005

7

¹[c. The State shall be liable, during their membership following transfer from PERS to PFRS, for the difference between what the employer would pay under PERS and what the employer would pay under PFRS for the members of PERS who transfer membership from PERS to PFRS pursuant to subsection a. of this section.]¹

²c. The State shall not be liable for additional costs incurred by a local employer as a result of the transfers permitted by this section.²

²[3.] 2.² This act shall take effect immediately.